

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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ROBERT F. TROLIO
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VINCENT BASS,

Plaintiff,

vs.

FEDERAL EXPRESS CORPORATION,

Defendant.

No. 04-2318 Ma/P

ORDER GRANTING DEFENDANT'S MOTION TO COMPEL PLAINTIFF'S
DEPOSITION AND GRANTING IN PART MOTION TO EXTEND
DEADLINES FOR DISCOVERY AND DISPOSITIVE MOTIONS

Before the Court is Defendant Federal Express Corporation's Motion to Compel Plaintiff's Deposition and Extend Deadlines for Discovery and Dispositive Motions, filed April 4, 2005 (dkt #17). Plaintiff Vincent Bass has not responded to this motion. For the following reasons, the motion to compel is GRANTED and the motion to extend deadlines is GRANTED IN PART.

Bass, through counsel, filed this employment discrimination lawsuit on April 29, 2004. The Court entered a scheduling order setting the discovery deadline for April 5, 2005 and deadline for dispositive motions for May 5, 2005. Trial is set for August 22, 2005. Because Federal Express ("Fed Ex") is having difficulty communicating with Bass, it seeks an order compelling Bass to appear for his deposition and extending the discovery and

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dispositive motion deadlines by 45 and 75 days, respectively.

Fed Ex first contacted Bass's counsel to schedule his deposition in October 2004. After several telephone calls between the attorneys, Bass's deposition was set for January 24, 2005. Less than one week prior to the scheduled deposition, however, Plaintiff's counsel moved to withdraw as counsel. At that time, Fed Ex agreed to postpone the deposition until January 31 to allow Bass to find a new attorney. The Court granted the motion to withdraw, but since that time, Bass has not retained another attorney.

On February 1, Fed Ex sent a letter to Bass, requesting a mutually convenient date for his deposition. Apparently, Bass did not respond, and Fed Ex noticed his deposition for March 1. Fed Ex was unable to confirm that Bass would appear on that date, so it rescheduled the deposition for March 16. On March 14, however, Bass informed Fed Ex that he could not appear for the March 16 deposition, but he indicated that he would provide alternative deposition dates within a few days. Bass has not contacted Fed Ex since March 14. Therefore, Fed Ex seeks an order compelling Bass to appear for deposition.

Local Rule 7.2(a)(2) requires that "[t]he response to the motion and its supporting memorandum . . . shall be filed within fifteen days after service of the motion and shall be accompanied by a proposed order. Failure to respond timely to any motion,

other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion." The response to Fed Ex's motion should have been filed by April 18. Moreover, Bass has not given any reason why he has failed to appear for the noticed depositions. Therefore, the Court GRANTS Fed Ex's motion to compel Bass to appear for his deposition. Bass shall be deposed within twenty (20) days from the date of this order. Additionally, Bass is warned that failure to appear for his deposition shall result in dismissal of the case with prejudice.

The Court also finds good cause to extend the deadlines for discovery and dispositive motions. The new deadline for both completing discovery and filing dispositive motions shall be June 5, 2005. All other dates listed on the scheduling order, including the trial date, shall remain the same. If, after deposing the Plaintiff, Fed Ex needs additional time to complete discovery or file a dispositive motion, it may file a motion asking for such relief.

IT IS SO ORDERED.



TU M. PHAM
United States Magistrate Judge

5/3/05

Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 20 in case 2:04-CV-02318 was distributed by fax, mail, or direct printing on May 9, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT